THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO : 10810 of 1996

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Dated 07-02-2006

Between:

N Fedrik Natham s/o Samuel
r/o. Kannapuram, Buttaigudem Mandal, West Godavari District.

..... PETITIONER

AND

1 Government of A.P. rep. by its Secretary, Revenue Department
Secretariat Buildings, Hyderabad and others.

…RESPONDENTS

THE HON'BLE MR. JUSTICE L. NARASIMHA REDDY

Writ Petition No.10810 of 1996

ORDER:

The Special Deputy Collector, West-Godavari, at Eluru, initiated proceedings against the petitioner under the A.P. Schedule Area Land Transfer Regulations, 1959, read with Regulation 1 of 1959, (for short 'the Regulations'), in respect of Ac.1.50 cents of land in R.S.No.77/2, of Basarajuapalli village. It was alleged that the transfer of the land in favour of the petitioner, a non-tribal, is hit by the Regulations. Ultimately, an order was passed, on 26-02-1982, directing eviction of the petitioner. However, the same was kept in abeyance, as per the orders of the Government of A.P., issued in G.O.Ms.No.129, Social Welfare Department, dated 13-08-1978.

The petitioner claims to have presented an appeal before the 2nd respondent on 09-11-1987, together with an application for stay. This writ petition is filed alleging that, even while the application preferred by the petitioner is pending, respondents 3 and 4 were taking steps to dispossess him.

In the counter affidavit filed by the 2nd respondent, it is stated that no appeal was presented by the petitioner, at all. It is further stated that, G.O.Ms.No.129, dated 13-08-1978 was held to be illegal, by this Court, and was set aside on 05-12-1984. It is stated that the possession of the land has been resumed by the 3rd respondent, on 24-05-1996, and it is still under his custody.

Heard the learned counsel for the petitioner and learned Government Pleader for Social Welfare.

The Special Deputy Collector passed an order of eviction against the petitioner, way back on 26-02-1982. The petitioner did not feel the immediate necessity of pursuing further remedies, because of the reason that, in the last paragraph of the said order, it was mentioned that, it is kept in abeyance, until further orders, as per G.O.Ms.No.129, dated 13-08-1978. The said G.O. was set aside by this Court in December, 1984. The petitioner was served with an order of ejectment on 23-09-1987. It was in this context, that the petitioner claims to have preferred an appeal on 09-11-1987. It is pleaded that neither any S.R. number, nor any acknowledgement was given. The petitioner approached this Court, at a time when the respondents are taking steps to evict him. An order of *status quo* was granted.

Having regard to the fact that the petitioner is from a schedule area, and the necessity for the petitioner to avail the remedy of appeal arose, nearly five years after the order of eviction; his rights cannot be defeated on technicalities. As of now, the land has already been resumed to the Government, and it is in the custody of the 3rd respondent. No prejudice would be caused to the respondents, if the claim of the petitioner is examined by the appellate authority. An Additional Agent, has been appointed for the exclusive purpose of hearing the appeals, under the Regulations.

For the foregoing reasons, the writ petition is disposed of, leaving it open to the petitioner to present an appeal before the Agent, or Additional Agent to the Government, as the case may be. If the appeal is filed within a period of four weeks from today,

it shall be entertained, without raising any objection, as to limitation. The land in question shall be continued to the 3rd respondent, till the disposal of the appeal; and further steps would depend upon the outcome of such appeal. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.07-02-2006.

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